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November 28, 2023

Via CM/ECF

The Honorable Richard G. Andrews
J. Caleb Boggs Federal Building
844 N. King Street, Unit 9, Room 6325
Wilmington, DE 19801-3555

**Re: *International Construction Products LLC v. Caterpillar Inc. et al.*,
Case No. 1:15-cv-00108**

Dear Judge Andrews:

I write on behalf of Plaintiff International Construction Products LLC ("ICP") in response to the November 7, 2023 letter submitted to Your Honor by Defendant Caterpillar Inc. ("Caterpillar") regarding the Eleventh Circuit's decision affirming the summary judgment granted in favor of certain Caterpillar dealers—*i.e.*, Ring Power, Thompson, and Ziegler—by a district court in the Northern District of Florida. *Int'l Constr. Prods., LLC v. Ring Power Corp.*, Appeal No. 22-10231, 2023 WL 7127515 (11th Cir Oct. 30, 2023) (unpublished per curiam).

Caterpillar does not suggest that this ruling is relevant to any issue currently being consider by the Court or is supplemental authority that might support any pending motion. It is not. This Court has previously held that the factual issues and theory of the case presented on summary judgment to the Florida court (and thus those on appeal before the Eleventh Circuit) are distinct from the issues previously presented in this case:

- "The theory of ICP's case against Caterpillar and Komatsu in this [Delaware] action is not the same as the theory of its case against Ring Power, Thompson, and Ziegler in that [Florida] action." D.I. 456 at 24.

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- “Here, the questions are different.” *Id.*
- “The Florida Court’s finding that there was insufficient evidence to show that the dealers agreed to threaten to withhold equipment from IronPlanet does not preclude a finding that Caterpillar and/or Komatsu conspired with some or all of the dealers to pressure IronPlanet in various ways, including but not limited to threatening to withhold business from IronPlanet until it agreed to terminate its partnership with ICP.” *Id.*

Respectfully submitted,

/s/ Matthew D. Stachel

Matthew D. Stachel (No. 5419)

cc: All Counsel of Record (*via CM/ECF*)